IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION ST.NO.12800 OF 2006
IN
APPEAL FROM ORDER ST.NO.12799 OF 2006
WITH
CIVIL APPLICATION ST.NO.12801 OF 2006

Azizullah Tota Khan & Ors. ..Applicants.

V/s.

The Municipal corpn. of Gr.Mumbai
& Anr. ..Respondents.

Ms.Geeta Shashtri i/b Khilnani & Co. for applicants.

Mrs.Geeta Joglekar for BMC.

Mr.S.M.Kazi for respondent No.2.

CORAM: A.M.KHANWILKAR,J

DATE : JUNE 14, 2006.

P.C. :

1. Not on board. Upon production taken on board.

2. Heard counsel for the parties. The applicants are the heirs and legal representatives of the original plaintiff. After the impugned order was passed by the trial Court the original plaintiff has expired. In this backdrop, the applicants who are incidentally heirs and legal representatives of the original plaintiff have applied to this court by way of present proceedings to question the correctness of the order of the trial Court. In that sense, the

applicants are entitled to pursue the present proceeding.

3. The delay of 8 days has been explained by the applicants in paragraph-2. The explanation so offered in my opinion, is sufficient cause. Accordingly, delay of 8 days is condoned. The applicants are also granted permission to pursue the proceedings before this court, challenging the order passed by the trial Court subject to the order passed by the trial Court in the application already taken by the applicants before the trial Court for bringing them on record as heirs and legal representatives of the original plaintiff. The Civil Application St.No.12800 of 2006 is allowed in terms of prayer clause(a).

4. Office to number the appeal from order subject to removal of any other pending office objection. Appeal from order be listed on 28th June, 2006 for admission.

5. Interim protection granted by the trial court to continue till 28th June, 2006.